

REMARKS

A. **Rejection of Claims 1-7 under 35 U.S.C. § 103(a):**

In the Office Action, the Examiner rejected claims 1-7 as unpatentable for obviousness over Anderson et al. (U.S. Patent No. 6,627,763) in view of Anderson et al. (U.S. Patent No. 6,479,682) as evidenced by Merriam-Webster's Online Dictionary.

In setting forth this rejection, the Examiner cites to Anderson '763 as disclosing in situ generation of active compounds. The Examiner then provides the definition of "in situ" and "spontaneous" and concludes that the in situ disclosure of Anderson '763 is a spontaneous event. Applicants respectfully disagree.

With respect to Anderson '763, although disclosing "in situ" generation of the active compounds nowhere does it disclose or suggest a spontaneous release. As the Examiner noted, the in situ generation of Anderson '763 is to provide a "desired effect [that is] **prolonged.**" (Col. 6 at line 17, emphasis added). Anderson '763 goes on to specifically detail that "the compounds of the invention provide a **slow release of the active agents.**" (Col. 6 at lines 21-22, emphasis added). Thus, not only does Anderson '763 fail to disclose or suggest spontaneous release, it actively teaches against this by providing for a **slow release** of the active ingredients.

With respect to Anderson '682, it also discloses "in situ" generation of active compounds but to provide a "desired effect [that is] prolonged." (Col. 6, lines 7-8). Anderson '682 goes on to specifically detail that "the compounds [of] the invention provide a slow release of the active agents" similar to Anderson '763. (Col. 6, lines 12-13). Thus, not only does Anderson '682 fail to disclose or suggest spontaneous release, it actively teaches against this by provided for a slow release of the active ingredients.

In contrast, the present invention allows the release of fragrances in a surprisingly spontaneous manner. For example, as detailed in Table 2 of Applicants' specification, the fragrance precursors showed spontaneous hydrolysis with virtually 100% of the maximum aldehyde concentration being formed from the fragrance precursors after 5 minutes. Applicants' fast or spontaneous release is in contrast to the "slow" release of the cited art which is a disadvantage that Applicants' discuss in the originally filed application at page 4, lines 5-16 ("[t]he prior art acknowledged above shows that...release the aldehyde or the ketone slowly").

The Examiner also provides dictionary definitions for "in situ" and "spontaneous." As the Examiner noted, the definition for "in situ" is solely related to **place or position**. This definition in no way gives any indication of time or duration. Furthermore, as evidenced by Anderson '763,

the in situ (location) of the active compounds occurs in a slow release. The Examiner provides no real justification as to why, especially in view of the contrary disclosure of Anderson '763, in situ generation of active compounds is spontaneous.

As the Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in *KSR International Co. V. Teleflex Inc.*, published October 10, 2007 state, "[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious." The Examiner cannot provide conclusory statements without support for his legal conclusion of obviousness. In this case, the Examiner has not clearly articulated why one skilled in the art would believe a reference to "in situ" to refer to anything but location. Furthermore, the Examiner has not clearly articulated how the contrary disclosure of Anderson '673 and Anderson '682 detailing "a slow release of the active agents" renders obvious the claims.

Thus, one skilled in the art would not be able to achieve spontaneous release of fragrances based on the disclosure of Anderson '673, Anderson '682 and Merriam-Webster's Online Dictionary, either alone or in combination as those references clearly teach away from spontaneous fragrance release. Thus, Applicants respectfully request withdrawal of the rejection of claims 1-7.

Prompt and favorable examination on the merits is requested.

For the Applicants,



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